

FINAL

Downtown San José
Property-Based Business Improvement District
Engineer's Report



San José, California
April 2012

Prepared by:
Kristin Lowell Inc.

*Prepared pursuant to the State of California
Property and Business Improvement District Law of 1994
and Article XIII D of the California Constitution
to renew and expand a property-based business improvement district*

TABLE OF CONTENTS

ENGINEER'S STATEMENT.....	1
----------------------------------	----------

ENGINEER'S REPORT:

SECTION A: Legislative and Judicial Review.....	2
SECTION B: Improvements and Activities.....	5
SECTION C: PBID Boundary	10
SECTION D: Cost Estimate.....	12
SECTION E: Special and General Benefits	13
SECTION F: Proportional Special Benefits	18
SECTION G: Apportionment Method.....	19
SECTION H: Assessment Roll.....	21

Attachment A: Assessment Roll, a separate document

Attachment B: PMZ³ Research Intercept Survey

Attachment C: Groundwerx Crew Statistics

ENGINEER'S STATEMENT

This Report is prepared pursuant to Section 36600 et seq. of the California Streets and Highways Code (the "Property and Business Improvement District Law of 1994" as amended) (hereinafter "State Law") and pursuant to the provisions of Article XIII D of the California Constitution ("Proposition 218").

The Downtown San José Property-Based Business Improvement District ("PBID") will provide services either currently not provided or are above and beyond what the City of San José ("City") provides. These services will specially benefit each individual assessable parcel in the PBID. Every individual assessed parcel within the PBID receives various levels of special benefit from the programs as identified under Section B of this Report. Only those individual assessed parcels within the PBID receive the special benefit of these proposed activities; parcels contiguous to and outside the PBID and the public at large may receive a de minimis general benefit as outlined in Section E. The cost of general benefits, if any, will be funded from other sources than assessments.

The duration of the proposed renewed and expanded PBID is ten (10) years commencing January 1, 2013. An estimated budget for the PBID improvements and activities is set forth in Section F. To keep pace with the Consumer Price Index and program costs, the PBID budget will be subject to an annual increase of up to 5% per year as determined by the Owners' Association and approved by the City Council and will vary between 0 and 5% in any given year. Funding for the PBID improvements and activities shall be derived from a property based assessment of each specially benefitted parcel in the PBID. A detailed description of the methodology for determining the proportional special benefit each individual assessable parcel receives from the PBID activities and the assessment for each parcel is set forth in Section E.

Respectfully submitted,



Terrance E. Lowell, P.E.

SECTION A: LEGISLATIVE AND JUDICIAL REVIEW

Property and Business Improvement District Law of 1994

The State Law is the legislation that authorizes the City to levy assessments upon the real property for the purposes of providing improvements and activities that specially benefit each individual assessed parcel in the PBID. The purpose of the PBID is to encourage commerce, investment, business activities and improve the quality of life for its residents. In order to meet these goals PBIDs typically fund activities and improvements, such as, enhanced safety and cleaning, marketing and economic development. Unlike other assessment districts which fund the construction of public capital improvements or maintenance thereof, PBIDs provide activities and improvements "to promote the economic revitalization and physical maintenance of the business districts of its cities in order to create jobs, attract new businesses, and prevent the erosion of the business districts." (Streets and Highways Code Section 36601(b)). The improvements and activities funded through the PBID are over and above those already provided by the City within the PBID's boundaries. Each of the PBID activities or improvements is designed to increase building occupancy and lease rates, to encourage new business development and attract residential serving businesses and services and improve the quality of life for its residents.

Specifically, the State Law defines "Improvements" and "Activities" as follows:

"Improvement" means the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years..."¹

"Activities" means, but is not limited to, all of the following:

- (a) Promotion of public events which benefit businesses or real property in the district.*
- (b) Furnishing of music in any public place within the district.*
- (c) Promotion of tourism within the district.*
- (d) Marketing and economic development, including retail retention and recruitment.*
- (e) Providing security, sanitation, graffiti removal, street and sidewalk cleaning, and other municipal services supplemental to those normally provided by the municipality.*
- (f) Activities which benefit businesses and real property located in the district.²*

Under State Law, parcels that are zoned solely residential or agricultural are presumed to receive no benefit from a PBID.

Article XIID of the State Constitution

In 1996, California voters approved Proposition 218, codified in part as Article XIID of the State Constitution. Among other requirements Article XIID changes the way local

¹ California Streets and Highways Code, Section 36610.

² California Streets and Highways Code, Section 36613.

agencies enact local taxes and levy assessments on real property. It states, in relevant part, that:

(a) An agency which proposes to levy an assessment shall identify all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed. The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the property related service being provided. No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and an agency shall separate the general benefits from the special benefits conferred on a parcel. Parcels within a district that are owned or used by any agency, the State of California or the United States shall not be exempt from assessment unless the agency can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit.

(b) All assessments shall be supported by a detailed engineer's report prepared by a registered professional engineer certified by the State of California³.

"Special benefit" means a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large. General enhancement of property value does not constitute "special benefit."⁴

Judicial Guidance

Since the enactment of Article XIID, courts have been asked to render opinions regarding various aspects of Article XIID. The notable portions of cases that apply to assessment districts in general and this PBID in particular are noted below.

"The engineer's report describes the services to be provided by the PBID; (1) security, (2) streetscape maintenance (e.g., street sweeping, gutter cleaning, graffiti removal), and (3) marketing, promotion, and special events. They are all services over and above those already provided by the City within the boundaries of the PBID. And they are particular and distinct benefits to be provided only to the properties with the PBID, not to the public at large—they "affect the assessed property in a way that is particular and distinct from {their} effect on other parcels and that real property in general and the public at large do not share."⁵

"...separating the general from the special benefits of a public improvement project and estimating the quantity of each in relation to the other is essential if an assessment is to be limited to the special benefits."⁶

³ Section 4, Article XIID of the State Constitution.

⁴ Section 2 (i), Article XIID of the State Constitution.

⁵ *Dahms v. Downtown Pomona Property and Business Improvement District*, (2009) 174 Cal. App. 4th 708.

⁶ *Beutz v. County of Riverside*, (2010) 184 Cal. App. 4th 1532.

*"...the agency must determine or approximate the percentage of the total benefit conferred by the service or improvement that will be enjoyed by the general public and deduct that percentage of the total cost of the service or improvement from the special assessment levied against the specially benefitted property owners."*⁷

*"...even minimal general benefits must be separated from special benefits and quantified so that the percentage of the cost of services and improvements representing general benefits, however slight, can be deducted from the amount of the cost assessed against specially benefitting properties."*⁸

It is noted that this Engineer's Report is prepared in compliance with the above noted authorizing legislation, the State Constitution and the judicial opinions.

⁷ *Golden Hill Neighborhood Association, Inc. v. City of San Diego*, (2011) 199 Cal. App. 4th 416.

⁸ *Golden Hill Neighborhood Association, Inc. v. City of San Diego*, (2011) 199 Cal. App. 4th 416.

SECTION B: IMPROVEMENTS AND ACTIVITIES

The PBID is a special benefit assessment district formed in 2007 that conveys special benefits to each individual assessed parcel located within the district boundaries. Downtown property owners now want to renew and expand the PBID for an additional ten (10) year term. As described in the PBID Management Plan, it is proposed that the PBID will continue to provide funding for enhanced maintenance, public safety, beautification, and economic development programs, above and beyond those provided by the City.

In addition, City staff recommends continued provision of approximately \$365,000 in baseline services and funding for the PBID. If future baseline service funding levels are decreased, the PBID has the option to reduce assessment levels by the same proportional amount. The baseline services are described below:

- Approximately \$365,000 in annual baseline funding contributions for sidewalk area trash pick-up and portering, cleaning, and power washing, typically weekdays in the transit mall, repertory plaza, SoFA and San Pedro Square areas.
- Public litter can (PLC) servicing of approximately 200 cans in the district generally outside of the transit mall and San José Repertory Theatre plaza, and typically from 1 to 6 days per week depending upon need (approximately 760 pickups per week) and PLC maintenance as needed.
- Street sweeping twice per week throughout the PBID.

ENVIRONMENT ACTIVITIES

PBID "Environment" activities and improvements are intended to improve commerce and the quality of life by making each individual assessed parcel safer, cleaner and more attractive which will encourage investment dollars downtown and generate additional pedestrian traffic. Environment activities specially benefit each individual assessed parcel, including commercial, government, parking structures, non-profits and residential. The special benefit to each individual assessed parcel from these activities is that a safer and cleaner environment will increase commercial activity which directly relates to increase in lease rates and customer usage, and a safer and cleaner environment for its residents.

A study published in *The Economic Journal* on the impacts 30 Los Angeles (Property) Business Improvement Districts (BID) have on public safety indicates that for every "additional \$10,000 spent by BIDs on private security it reduces the average number of crimes per neighborhood by 3.37...and 1.65 fewer arrests. Crime specific results indicate that most of the reduction in arrests is for robbery and assault ... BIDs clearly pass a cost-benefit test".⁹

⁹ Cook, Philip, and John MacDonald. 2011. "Public Safety through Private Action: An Economic Assessment of BIDs." *The Economic Journal*, 121 (May) 445-462.

Clean and Safe Program

Downtown's "Groundwerx" clean and safe program was developed following the creation of the PBID in 2007. Objectives in developing the program from the 2007 PBID Management Plan included:

- Deploy a Clean and Safe program that will make a visible, tangible and lasting impact.
- Carefully document existing City services and ensure that PBID-funded services are supplemental to, and do not replace, existing City services.
- Ensure that the program is properly capitalized and that additional funding will not be required once the PBID is created.
- Provide flexibility in the modeling of the program so that the PBID can either create its own in-house program or contract with private firms.

To meet these objectives, uniformed Groundwerx cleaning crews have been deployed throughout the PBID to remove litter and graffiti, clean sidewalks and maintain furniture in public places. Results from the 2011 annual property owner survey showed that 82.3% of the respondents felt there was an improvement in the overall cleanliness since the implementation of Groundwerx cleaning services. Groundwerx ambassadors have also been effective at deterring/monitoring quality of life issues, providing hospitality services to downtown visitors and connecting the PBID's homeless population to available resources. 93.7% of the survey respondents said they were satisfied with the overall condition of the downtown. Achievements of Groundwerx crews within the PBID include (see Attachment C for the complete listing of the Groundwerx crew statistics):

- Removing thousands of gum wads from sidewalks;
- Abating thousands of graffiti tags;
- Picking up tons of trash;
- Sweeping and power-washing miles of sidewalks, paseos and light-rail tracks;
- Trimming hundreds of trees;
- Directing hundreds of visitors to their destinations;
- Touch up painting to light poles, curbs and benches.

Continuation and expansion of the PBID will allow the Groundwerx crews to build upon these achievements and keep the PBID clean and safe. The proposed PBID continuation work program will provide ongoing Groundwerx deployment at the following frequencies:

<i>Maintenance: 13 to 18 Full Time Equivalent (FTE) *</i>	Premium Zone	Basic Zone
Coverage	7 days/week	7 days/week
Pan & Broom litter Removal/Vacuuming/Machine Sweeping/Transit Stop Maintenance	16 hours per day	8 hours per day
Steam Cleaning	Four to six times per year	Two to four times per year
Graffiti Removal	Daily As Needed	Daily As Needed

Light Landscape/Weed Removal	As Needed	As Needed
Swat Patrol or "emergency cleaning"	As Needed	As Needed
Maintenance of PBID funded beautification elements	Landscape watering 3 days/wk and as needed	As Needed
Tree trimming	Approx ¼ of street trees per year	Approx ¼ of street trees per year
Other maintenance services such as pole painting, paver grout replenishment and refinishing street benches	As Needed	As Needed
<ul style="list-style-type: none"> Under the current service deployment model there are 14 members of the clean team. This number may vary as a result of changes in service levels. 		

Info & Safety Ambassadors: 9 to 12 Full Time Equivalent (FTE)	Premium Zone	Basic Zone
Coverage	7 days/week 16 hours per day	7 days/week 8 hours per day
<ul style="list-style-type: none"> Under the current service deployment model there are 9 ambassadors. This number may vary as a result of changes in service levels, such as the implementation of the enhanced security program, which could reduce the FTE range for ambassadors to 6 to 9 FTEs. 		

Options for Enhanced Security: The PBID renewal process has evidenced continued property owners concern with both the reality and perception of public safety within the PBID. There are a variety of elements contributing to this concern, including ongoing challenges with homeless populations, and nuisance crimes ranging from aggressive panhandling to vandalism.

In order to effectively address these concerns the PBID may also fund, in addition to the information and safety ambassadors, programs and activities that target nuisance crimes. Based on best practices from other PBID districts in California, the additional funded activities may include the following to be determined by the PBID Owner's Association and approved by the City Council:

- A "navigator program" in which ambassadors would be tasked with a case management approach to match chronic homeless individuals with available social services (Sacramento, Santa Monica).
- A community prosecutor that would provide restorative justice remedies, such as, community service hours, removing graffiti, and gum scraping, to individuals convicted of nuisance crimes (Sacramento, San Diego).
- Supplemental security patrols (in addition to ambassadors) working under the exclusive direction of the PBID Owner's Association and responding to activity exclusively within the boundaries of the PBID (Sacramento).
- Adjust ambassador training and deployment from hospitality to more of a private security emphasis (Los Angeles).

Options for Enhanced Maintenance: Prior City budget cuts during the term of the existing PBID have necessitated the PBID to expand the scope of its maintenance activities to include tree trimming throughout the PBID. In order to preemptively address

this same possibility in the next term of the PBID, other enhanced maintenance activities are envisioned including the repair and replacement of tree wells and sidewalk grout. There may be other enhanced maintenance needs that arise and each will be evaluated and considered by the PBID Owner's Association and City Council.

Deployment of Clean and Safe Services: Clean and safe services are deployed in each of two "benefit zones" within the PBID:

- **Premium Service Zone:** The Premium Zone contains the majority of the PBIDs' parcels, and also contains the highest density of buildings as well as the largest number of commercial and retail businesses and office buildings and is the convergence of public modes of transportation – bus and light rail in the PBID. This accounts for the highest pedestrian activity in the PBID which creates the conditions requiring a greater amount of clean and safe services within the PBID, such as dirty sidewalks, the presence of graffiti, and the need to provide ambassador assistance. The service plan anticipates that service deployment frequencies within the premium service zone will be double the remainder of the PBID – from the number of ambassadors to the frequency of sidewalk cleaning.
- **Basic Service Zone:** The basic service zone within the PBID has less pedestrian activity compared to the Premium Service Zone due to fewer parcels, lower building density, fewer retail and commercial businesses, and the absence of transit converge. Accordingly, the lower level of pedestrian activity results in a reduced need for clean and safe services. Service frequencies within the basic service zone are in direct correlation to reduced pedestrian traffic and service needs and are expected to be about half the frequency of services in the premium service zone, as identified in the frequency table above.

ECONOMY ACTIVITIES

A comprehensive economic development program is included as a key component of the PBID, to proactively work on filling office and retail vacancies with targeted businesses, and bring more residents and visitors to the PBID to engage in commercial or business activities. A collaborative approach is proposed, whereby multiple property owners and real estate professionals will work collectively with civic leaders to promote the advantages of the PBID as a business location. The special benefit each individual assessed parcel receives from these activities is increased business development which generates customer traffic which directly relates to increases in commercial activity, filling of vacant storefronts and offices and then ultimately, increased lease rates for retail and office space.

Beautification

In addition to clean and safe services, the PBID budget includes funds for beautification improvements that are defined as cosmetic improvements that visually improve the appearance of the PBID and also to improve wayfinding which, in turn will encourage customer traffic. Examples of image enhancement improvements include:

- Design and installation of flowering planters and baskets
- Directional, wayfinding and gateway signage
- Street furniture and amenities, such as benches, kiosks and lighting
- Design and installation of art and decorative elements
- Other cosmetic improvements that visually improve the PBID's appearance.

Business Retention and Recruitment

In an effort to increase patronage of existing businesses as well as fill vacant storefronts and encourage business development and commerce this program will provide a primary one-stop point of contact for business prospects looking to locate and/or grow in the PBID. The PBID will provide the funding for the San José Downtown Association to hire one full time economic development professional with a limited program support budget for market research and packaging of information. Key tasks may initially include:

- Market information on downtown and a variety of key downtown market indicators will be researched, packaged and maintained. This function will be performed either by part-time staff or sub-contracted.
- The economic development professional will serve as a liaison and expeditor to assist business and property owners in permitting and development review processes, working in partnership with the City's Planning Department.
- The economic development professional will work collaboratively with property owners, real estate professionals, City staff, and regional economic development groups to coordinate and leverage business attraction efforts.

ADMINISTRATION

Administrative costs of less than 10% of the total assessment have been included within the PBID budget. Examples of administrative costs include:

- Accounting and annual financial reports
- Staff support for the PBID Owners' Association board of directors
- Program support costs including supplies, equipment and rent
- County and City PBID assessment collection fees, estimated at 1% of assessments
- Management of clean and safe Groundwerx services and beautification program
- Communications such as newsletters, surveys and website
- Other administration costs associated with the overhead and administrative support of programs.

To reduce administrative costs, increase leveraging of funds and avoid duplication of enhanced services, the PBID Owners' Association will continue to contract with the San José Downtown Association to deliver day-to-day services.

SECTION C: PBID BOUNDARY

The PBID will continue to encompass the core of the downtown area bounded roughly by:

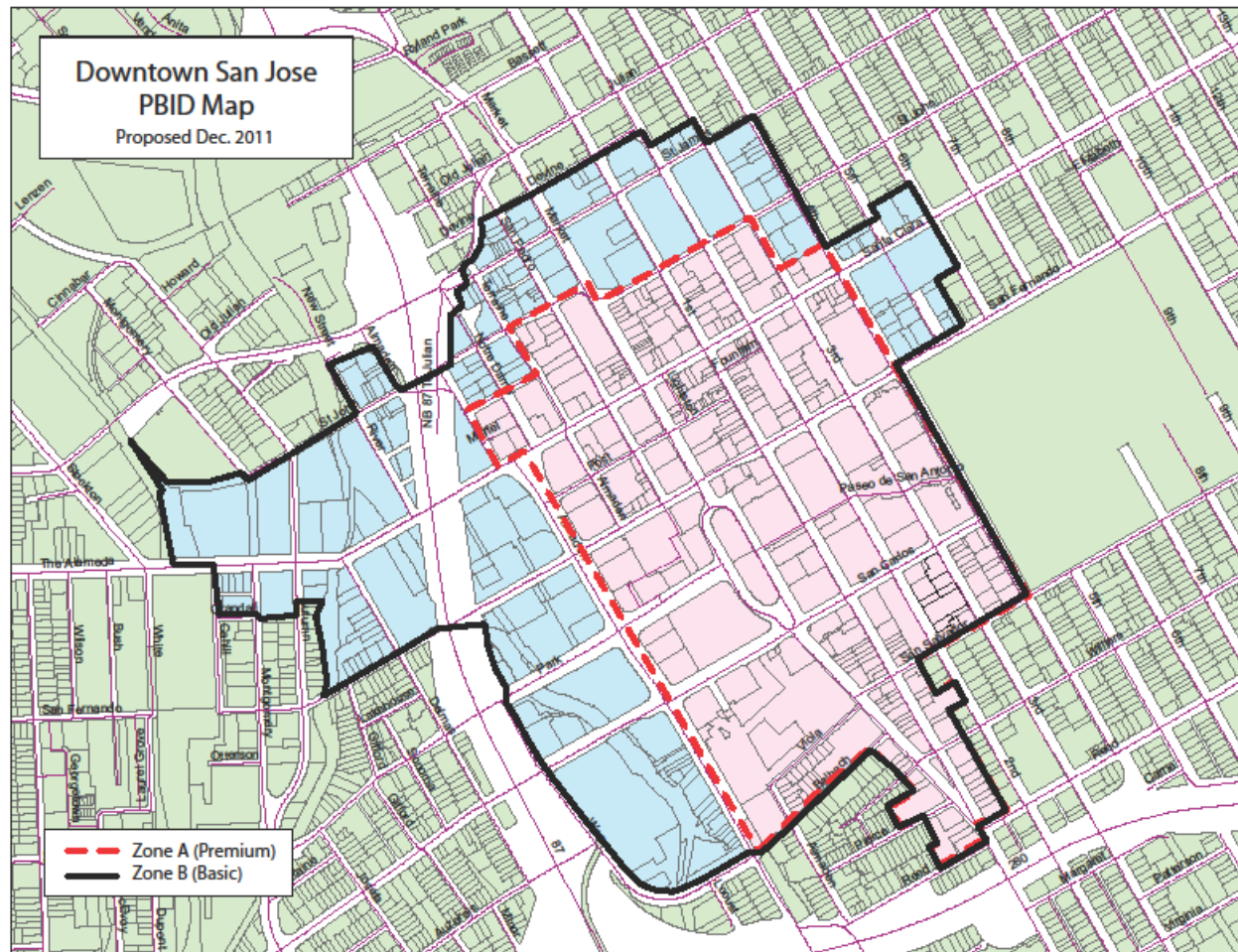
- 4th Street, the San José State University campus and City Hall complex to the east,
- St. James and Devine Streets to the north,
- Highway 87 and the arena complex to the west and
- Market and First Streets to Reed Street in the south.

Additions to the PBID area include the area commonly known as the “Little Italy” district which is from N. Almaden Avenue from St. John to Julian Streets, plus the one block of 5th Street to the south of City Hall.

Benefit Zones: Two benefit zones are proposed with two different levels of service. The deployment and frequency of clean and safe services in the premium zone will be approximately double the deployment and frequency of clean and safe services in the basic zone as described in Section B. The benefit zones are delineated as follows:

- **Premium Service Zone** encompasses the core of the PBID and is bounded roughly by St. John to the north, Almaden to the west, First and Reed Streets to the south and 4th Street to the east.
- **Basic Service Zone** includes the remainder of the PBID and generally includes the perimeter of the district to the west and north.

A map of the proposed district boundary is provided below.



SECTION D: COST ESTIMATE

2013 Operating Budget

The following table outlines the PBID estimated operating budget for January 2013 – December 2013.

EXPENDITURES	Assessments	Other	Total
Environment			
Clean Teams	\$840,000	\$427,430	\$1,267,430
Information & Safety Ambassadors	\$475,000		\$475,000
Tree Trimming & Enhanced Maintenance	\$285,000		\$285,000
Total Environment	\$1,600,000	\$427,430	\$2,027,430
Economy			
Beautification & Landscape	\$250,000		
Business Retention & Growth	\$125,000		
Total Economy	\$375,000		\$375,000
Administration & Reserve	\$217,250	\$1,100	\$218,350
TOTAL EXPENDITURES	\$2,192,250		\$2,620,780
REVENUES			
Assessments	\$2,192,250		
Other (1)		\$428,530	
TOTAL REVENUES			\$2,620,780

(1) Comprised of the City's baseline services funding and other non-assessment funding to cover the cost associated with general benefit and residential units zoned solely for residential use.

Budget Notations

To keep pace with the Consumer Price Index-All Urban Consumers, San Francisco-Oakland-San Jose and other program costs consistent with this Report, the PBID assessment budget may increase by no more than 5% of the prior year's assessment budget per year. Actual budgets and increases will be determined by the SJDA Board of Directors, which is the PBID Owners' Association and formally approved by the City Council.

SECTION E: SPECIAL and GENERAL BENEFITS

State Law, Proposition 218, and judicial opinions require that assessments be levied according to the estimated special benefit each assessed parcel receives from the activities and improvements. Article XIID Section 4(a) of the California Constitution in part states "only special benefits are assessable" which requires that we separate the general benefits, if any, from the special benefits provided by the proposed activities and improvements. Further clarification from the Golden Hill judicial opinion states that "even *minimal* general benefits must be separated from special benefits and quantified so that the percentage of the cost of services and improvements representing general benefits, however slight, can be deducted from the amount of the cost assessed against specially benefitting properties". A special benefit as defined in Article XIID means a particular and distinct benefit over and above general benefits conferred on real property located in the PBID or to the public at large.

The special benefit to parcels from the proposed PBID activities and improvements described in this Report is equal to or exceeds the total amount of the proposed assessment. Each individual assessed parcel's assessment is no greater than the special benefit it receives from the PBID services. The quantitative analysis of determining the special and general benefit is provided below.

Special Benefit

All of the PBID activities are to supplement and not replace or duplicate any City provided services. All benefits derived from the assessments outlined in this Report are for property related activities directly benefiting each individual assessed parcel in the PBID. The special benefit must affect the individual assessable parcel in a way that is particular and distinct from its effect on other parcels and that real property in general and the public at large do not share.

The PBID's purpose is to fund activities and improvements to provide a cleaner, safer, and more beautiful environment and to perform the business development services as outlined in Section B with the goal of increasing pedestrian traffic and filling vacant storefronts, office space and residential properties. By presenting a more attractive, safer and vibrant destination, pedestrian traffic will increase. The higher the pedestrian traffic, the greater demand for business development; the basic premise of a commercial district.

Pedestrian traffic encourages business development and therefore, we need to quantify the number of people that engage in commerce in the PBID. The San José Downtown Association contracted with PMZ³ Research to conduct intercept surveys within the PBID boundary to determine to what degree respondents engage in any type of commercial activity (going to a restaurant or movie, shopping, visiting a professional or service oriented business, attending an arts performance or an event at the convention center) within the geographical boundary of the PBID. The survey included 408 participants, with a margin of error of 4.8%, and was conducted from

March 9, 2012 through March 20, 2012 at eleven separate locations within the PBID with all efforts made to include an unbiased cross section of participants.

Of the 408 respondents, 100% indicated that they will and intend to engage in at least one of the activities asked in the survey (going to a restaurant or movie, shopping, visiting a professional or service oriented business, attending an arts performance or an event at the convention center) within the PBID boundary as opposed to "just passing through" the PBID with no business purpose. The survey also found that of the 408 respondents 100% indicated that at least one of the PBID enhanced services contributed to their decision to come downtown and engage in commerce. The final survey results are attached as Attachment B to this report.

Based on the results of the survey, we concluded that each of the proposed PBID services and activities provides special benefits to the real property within the PBID. Article XIID Section 4(a) of the state Constitution states "An agency which proposes to levy an assessment shall identify all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed". Below is an analysis of how each individual assessed parcel benefits from the PBID activities.

Commercial Parcels: All commercial parcels will specially benefit to the same degree from all the PBID activities regardless of their commercial use. The Environment Services (clean and safe) will make each of the commercial parcels cleaner and safer. Specifically, each commercial parcel specially benefits from PBID activities, such as: increased security patrol¹⁰, removing graffiti from their buildings, connecting the homeless to available resources, reducing the number of trips and falls by repairing the grout in the sidewalks in front of their parcel, picking up trash that pedestrians leave behind, and powerwashing their sidewalks.

The Economy Services (beautification and business retention and growth) will specially benefit each commercial parcel by encouraging business development and investment which generates customer traffic which directly relates to increases in commercial activity, filling of vacant storefronts and offices and then ultimately, increased lease rates for retail and office space and cars parking in the paid parking structures and lots. All commercial parcels will be assessed based on their proportional share of the special benefits received from the PBID activities.

Residential and Non-Profit Parcels: All residential and non-profit parcels receive the same level of service and special benefit from Environment Services (i.e. clean and safe) as all other parcels in the PBID by making each of these parcels cleaner and safer. Specifically, these parcels specially benefit from PBID activities, such as; removing graffiti from their buildings, patrolling their sidewalks, connecting the homeless to available resources, reducing the number of trips and falls by repairing the grout in the sidewalks in front of their parcel, cleaning up any debris or broken glass on their sidewalks, and powerwashing their sidewalks. Thus, each of these parcels is assessed for

¹⁰ The study published in the Economic Journal, cited above in footnote 9, indicates that 30 Los Angeles BIDs that provide security services resulted in crime reduction within those districts.

the special benefits received from the Environment services. However, these parcels will not receive special benefit from Economy Services (i.e. business retention and recruitment) because those uses are not engaged in commercial or customer attraction activities, and will not specially benefit from the increased economic activities. Therefore, they will not be assessed for the Economy Services.

However, State Law provides that properties zoned solely for residential use are conclusively presumed not to benefit from the improvements and services funded through these assessments, and shall not be subject to assessment. As a result, the properties within the PBID zoned solely for residential use will not be assessed for nor receive the Environment services like other residential properties. The PBID Owners' Association does intend to engage the owners of the parcels zoned solely for residential use to determine if they are interested in a fee for service agreement with the Owners' Association to pay for and receive services as contemplated in the PBID Management Plan/Engineers Report.

Publicly Owned Parcels: The PBID includes parcels owned by the City of San Jose, State of California and the Federal government. The PBID has two different types of public parcels; those that are traditional government, e.g. courthouse, parks, fire stations, post office, and government offices, and other enterprise government parcels that support economic activities, e.g. convention center, the Arena, and parking structures. All publicly owned parcels specially benefit from the Environment services as it makes each individual assessed parcel cleaner and safer. Specifically, these parcels specially benefit from PBID activities, such as, removing graffiti from their buildings, patrolling their sidewalks, connecting the homeless to available resources, reducing the number of trips and falls by repairing the grout in the sidewalks in front of their parcel, or cleaning up any debris or trash and powerwashing their sidewalks.

However, the traditional government parcels, unlike the enterprise government parcels will not benefit from the Economy services as they are not intended for commercial use or income generation and therefore, will not be assessed for those services. The enterprise government parcels are of a commercial nature and will specially benefit in much the same way as commercial parcels from the Economy services as they benefit from the business development and revenue generation and therefore, will be assessed their proportionate share of these activities.

All publicly-owned parcels will pay their proportional share of costs based on the special benefits conferred to those individual parcels. Article XIII D of the State Constitution contemplates payment of assessments by governmental entities. Section 4(a) of Article XIII D states in relevant part that "Parcels within a district that are owned or used by any agency... shall not be exempt from assessment unless the agency can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit."

General Benefit

As required by the State Constitution, the general benefits of an assessment district must be quantified and separated out so that the cost of the activities that are attributed to general benefit are deducted from the cost assessed against each specially benefitted parcel. General benefits are benefits from the PBID activities and improvements that are not special in nature, are not "particular and distinct" and are not over and above the benefits that other parcels receive. This analysis will evaluate and determine the general benefits that (1) parcels outside of PBID receive, and (2) the public at large receive.

General Benefit to Parcels Outside of PBID

All the PBID activities and improvements are provided to each of the individual assessed parcels in the PBID boundary. No PBID activities will be provided to any parcel outside of the PBID boundary. However, it is conceivable to conclude that some parcels outside of the PBID boundary may receive some spill-over benefit from the Safety activity as well as the Business Retention & Growth activities.

In the case of the PBID, the parcels considered outside of the PBID's boundary that may receive a general benefit are those parcels that are immediately adjacent to or immediately across the street from the PBID boundary. If a parcel is at least a block away or does not directly front the PBID boundary, then it is not included in this analysis due to the fact that it is not in close proximity to the PBID services and will not receive spill over benefit. Based on these criteria there are approximately 45 commercial parcels and 60 non-commercial parcels outside of the PBID boundary that may receive spill-over benefit which we believe to be a nominal benefit from the Safety and Business Retention & Growth activities. In order to calculate the benefit these parcels may receive, the percentage of the budget for these activities that may be attributed to parcels outside of the PBID must be determined. The following table illustrates this calculation.

<u>Benefit Factor Calculation:</u>	<u>Budget</u>	<u>Percent of Total</u>	<u>x</u>	<u>Relative Benefit *</u>	<u>=</u>	<u>Benefit Factor</u>
Budget for Safety:	\$475,000	21.67%		0.5		0.11
Budget for Business Retention & Growth:	\$125,000	5.70%		0.5		0.03
TOTAL PBID Assessment Budget:	\$2,192,250					

** For purposes of this analysis, we used a conservative 50% relative benefit factor to account for parcels outside the PBID that may receive a nominal benefit from the PBID services.*

To calculate the Benefit Factor multiply the Percent of Total by the Relative Benefit. The commercial parcels outside of the PBID boundary are assigned a total benefit factor of 0.14 (0.11 + 0.03) to account for the fact that they may benefit from both the Safety and Business Retention & Growth activities that may encourage commerce not only within the PBID boundary but immediately adjacent to it. The non-commercial parcels outside of the PBID boundary are assigned a benefit factor of 0.11 to account for the fact that they may nominally benefit from the Safety activities. In comparison, there are 1,894 parcels within the PBID boundary, all of which receive a benefit factor of 1.0 acknowledging that they receive special benefit from the PBID activities.

To calculate the general benefit percentage, the respective benefit factors must be applied to the number of parcels both within the PBID boundary and those that are outside of the PBID boundary. The table below shows the calculation for the general benefit percentage.

	No. of Parcels	Benefit Factor	Total Benefit Units
No. of Parcels in PBID:	1789	1.00	1789.00
No. of Commercial parcels outside of PBID boundary	45	0.14	6.13
No. of Non-Commercial parcels outside of PBID boundary	60	0.11	6.47
Total number of parcels	1,894		1801.60

General Benefit to parcels outside of PBID boundary

0.70%

$(6.13+6.47)/1801.60$

General Benefit to the Public At Large

In addition to the general benefit to the parcels outside of the PBID boundary, there may be general benefits to the public at large, those people that are either in the PBID boundary and not specially benefitted from the activities or people outside of the PBID boundary that may benefit from the PBID activities. In the case of the PBID the public at large are those people that are within the PBID boundary that do not pay an assessment and do not specially benefit from the PBID activities. To quantify this, a determination is made of how many people are in the PBID boundary regardless of the PBID activities or that the PBID activities do not influence their decision to be downtown.

Referencing back to the survey conducted by PMZ³ Research, there was a series of 4 questions posed to the respondents to measure how important the PBID activities are in their decision to be in the PBID boundary. Of the 408 respondents, none of them indicated "Not at all Important" to all 4 questions relating to the PBID activities. What this indicates is that at least one of the PBID activities was important to every one of the respondents to be in the PBID, and hence engaged in activities benefitting the parcels within the PBID. However, with the 4.8 % margin of error in the survey we believe it is conceivable there may be a nominal general benefit attributed to the public at large. Incorporating the 4.8% margin of error into the 408 responses equals 0.01% (4.8% divided by 408 responses) general benefit, as calculated by PMZ³ Research. However, for the purposes of this analysis, we will apply a 1.0% general benefit to factor in the benefit received by the public at large.

Total General Benefits

Using the sum of the two (2) measures of general benefit described above, we find that approximately 1.70% of the benefits conferred by the PBID activities may be general in nature and should be funded from sources other than special assessments.

SECTION F: PROPORTIONAL SPECIAL BENEFITS

Methodology

Determining the proportionate special benefit among the parcels of real property within the proposed assessment PBID which benefit from the proposed improvements and services is the result of a four-step process:

1. Defining the proposed activities;
2. Defining how each parcel specially benefits from the proposed activities;
3. Determining the amount of special benefit each parcel receives; and
4. Determining the proportional special benefit a parcel receives in relation to the amount of special benefit all other parcels in the PBID receive.

The proportional special assessment derived by each individual assessed parcel shall be determined in relationship to the entirety of the capital cost of an improvement or the maintenance and operation expenses of an improvement or for the cost of the parcel related service being provided. Due to the proportionate special benefits received by these parcels from the PBID services, these parcels will be assessed a rate which is proportionate to the amount of special benefits received.

Special Benefit Factors

Each of the PBID activities is designed to meet the goals of the PBID: to improve the cleanliness, safety and appearance of each individual assessed parcel and the public areas immediately adjacent to their parcel within the PBID, and in turn, increase building occupancy and lease rates, encourage new business development, and attract residential serving businesses and services. All parcels within the PBID receive special benefit to varying degrees from the PBID services and improvements, as previously discussed. A determination of how much each individual assessed parcel benefits from these services and improvements is related to each parcel's type of use and lot and gross building square footage. The best measure of proportional special benefit for an individual parcel is determined by a ratio of the parcel's assessable square footage to the total assessable square footage of all parcels in the PBID boundary, respective of each individual assessed parcel's benefit zone.

The way to measure proportional special benefit for an individual parcel is determined by a ratio of the parcel's lot and gross building square footage compared to the total lot and gross building square footage of all parcels in the PBID boundary.

Lot plus Gross Building Square Footage: The sum of lot and gross building square footage is the assessment variable for the PBID activities as it acknowledges the benefits received at the ground level and distributed throughout the buildings. Each of the individual assessed parcels will benefit from the Environment services not only at the street level but also throughout the building as it will provide a safer environment for its employees, residents and visitors. The Economy services are also delivered at both the ground level and throughout the buildings as they will improve occupancy, sales, business retention and recruitment to each individual assessed parcel.

SECTION G: APPORTIONMENT METHOD

As previously discussed in Section B, the PBID services and improvements are determined and segregated into the two benefit zones based upon each Zone's demand for services and improvements and the benefits received. The table below summarizes the assessable footages for the lot square footage and building square footage for each land use type within each benefit zone:

Benefit Zone and Land Use	Lot Sq.Ft.	Bldg Sq.Ft.
Premium Zone		
Commercial/ Ent Government	5,306,654	9,104,161
Residential/Non-Profit/Tradtl Govt	1,293,518	2,485,112
Basic Zone		
Commercial/ Ent Government	3,730,276	4,140,091
Residential/Non-Profit/Tradtl Govt	1,236,033	344,366

Calculation of Assessments

There are two benefit zones within the PBID: the Premium Zone which is the core of the downtown and Basic zone which is every other parcel in the PBID.

Premium Zone

As described in Section B, the premium service zone includes areas of highest pedestrian activity where demands for PBID services and improvements are greatest. The Premium Zone contains 1,515 of the PBID's 1,789 total parcels.

Basic Zone

As described in Section B, the basic service zone has less pedestrian activity and less demand for clean and safe services as compared to the Premium Zone.

To calculate the assessment rate per lot and building square foot is to divide each PBID service assessment budget by the number of lot plus building square feet for each benefit zone. The portion of the budget that is allocated to Administration is applied to both the Environment and Economy budget based on their prorated share of the budget, see below.

	Service Budget	% of Services Budget	Budget with Admin Allocation
Environment Activities	\$1,600,000	81.0%	\$1,776,000
Economic Activities	\$375,000	19.0%	\$416,250
TOTAL ASSMT BUDGET	\$1,975,000		\$2,192,250

	Budget with Admin Allocation	No. of Assessable Lot plus Bldg SF	Premium Zone Assmt Rate	Basic Zone Assmt Rate
Environment Activities (100% Premium, 50% Basic)	\$1,776,000	22,914,828	\$0.0775	\$0.0388
Economic Activities (100% Premium and Basic)	\$416,250	22,281,182	\$0.0187	\$0.0187

Based on each individual parcels benefit zone, land use classification and special benefit from the PBID activities the following table illustrates the first year's maximum annual assessment per lot and building square foot.

Land Use Type	Premium Zone Assessment Rate	Basic Zone Assessment Rate
Commercial/Govt Enterprise	\$0.0962	\$0.0574
Residential/Non-Profit/Govt Tradt'l	\$0.0775	\$0.0388

To calculate each parcel's assessment is to multiply each parcel's assessable square footage by the appropriate assessment rate for that benefit zone.

For example, to calculate the assessment for a commercial parcel in the Premium Zone with a 100,000 square foot building plus 20,000 square feet of lot = building square footage + lot square footage x Premium Zone assessment rate = the total annual parcel assessment.

$$(100,000 + 20,000 \times \$0.0962 = \$11,545.20 \text{ annual parcel assessment})$$

To calculate the assessment for a commercial parcel in the Basic Zone with a 100,000 square foot building plus 20,000 square feet of lot = building square footage + lot square footage = building square footage x Standard Zone assessment rate = the total annual parcel assessment.

$$(100,000 + 20,000 \times \$0.0574 = \$6,892.80 \text{ annual parcel assessment})$$

Annual Assessment Adjustments

Future Development: As a result of continued development, the PBID may experience the addition or subtraction of assessable lot and building square footage for parcels included and assessed within the PBID boundaries. The modification of improvements to the parcels assessed within the PBID may change upwards or downwards based on the change in a parcel's total square footage and lot size.

SECTION H: ASSESSMENT ROLL

The total assessment amount for 2013 is \$2,192,250 apportioned to each individual assessed parcel. For a complete listing of assessed parcels please see Attachment A: Assessment Roll, attached as a separate document.